



January 31, 2014

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## SENATE BILL No. 104

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DIGEST OF SB 104 (Updated January 29, 2014 4:15 pm - DI 87)

**Citations Affected:** IC 36-1.

**Synopsis:** Dissolution of political subdivision. Specifies that a county, city, town, or township does not have the power to dissolve another political subdivision, except as expressly granted by statute. Specifies a procedure through which a political subdivision that was established by another political subdivision may be dissolved.

**Effective:** July 1, 2014.

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**Tallian, Head**

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January 8, 2014, read first time and referred to Committee on Local Government.  
January 30, 2014, amended, reported favorably — Do Pass.

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SB 104—LS 6072/DI 87





January 31, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## SENATE BILL No. 104

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 36-1-3-8, AS AMENDED BY P.L.13-2013,  
2 SECTION 148, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) Subject to subsection (b), a  
4 unit does not have the following:  
5 (1) The power to condition or limit its civil liability, except as  
6 expressly granted by statute.  
7 (2) The power to prescribe the law governing civil actions  
8 between private persons.  
9 (3) The power to impose duties on another political subdivision,  
10 except as expressly granted by statute.  
11 (4) The power to impose a tax, except as expressly granted by  
12 statute.  
13 (5) The power to impose a license fee greater than that reasonably  
14 related to the administrative cost of exercising a regulatory power.  
15 (6) The power to impose a service charge or user fee greater than  
16 that reasonably related to reasonable and just rates and charges

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for services.

(7) The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.

(8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.

(9) The power to prescribe a penalty of imprisonment for an ordinance violation.

(10) The power to prescribe a penalty of a fine as follows:

(A) More than ten thousand dollars (\$10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air permit program under IC 13-17-12-6.

(B) For a violation of any other ordinance:

(i) more than two thousand five hundred dollars (\$2,500) for a first violation of the ordinance; and

(ii) except as provided in subsection (c), more than seven thousand five hundred dollars (\$7,500) for a second or subsequent violation of the ordinance.

(11) The power to invest money, except as expressly granted by statute.

(12) The power to order or conduct an election, except as expressly granted by statute.

**(13) The power to dissolve a political subdivision, except:**

**(A) as expressly granted by statute; or**

**(B) if IC 36-1-8-17.7 applies to the political subdivision, in accordance with the procedure set forth in IC 36-1-8-17.7.**

(b) A township does not have the following, except as expressly granted by statute:

(1) The power to require a license or impose a license fee.

(2) The power to impose a service charge or user fee.

(3) The power to prescribe a penalty.

(c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking.

SECTION 2. IC 36-1-8-17.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 17.7. (a) This section applies to a political subdivision:**

**(1) that was established by another political subdivision; and**

**(2) for which there is no process or procedure expressly specified by law regarding the dissolution of the political subdivision.**

**(b) A political subdivision described in subsection (a) may be dissolved in the following manner:**



(1) The political subdivision described in subsection (a) may be dissolved as provided in this section only by the political subdivision that established the political subdivision described in subsection (a).

(2) The legislative body of the political subdivision that established the political subdivision described in subsection (a) must adopt a preliminary resolution stating the intent of the legislative body to dissolve the political subdivision described in subsection (a).

(3) The legislative body that established the political subdivision described in subsection (a) must hold a separate public meeting regarding the proposed dissolution of the political subdivision described in subsection (a). Notice of the meeting shall be given in accordance with IC 5-3-1. The legislative body must hold the public meeting:

(A) except as provided in clause (B), at least ninety (90) days after adopting the preliminary resolution under subdivision (2); or

(B) at least one hundred eighty (180) days after adopting the preliminary resolution under subdivision (2), in the case of the proposed dissolution of a political subdivision described in subsection (a) that has been in existence for at least ten (10) years.

(4) At least ten (10) days before the public meeting under subdivision (3), the legislative body that established the political subdivision described in subsection (a) must make available to the public a plan regarding the proposed dissolution. If the legislative body maintains an Internet web site or an Internet web site is maintained on behalf of the legislative body, a copy of the plan must be posted on the Internet web site at least ten (10) days before the public meeting under subdivision (3).

(5) The plan regarding the proposed dissolution must specify the following:

(A) The effective date of the dissolution.

(B) A description of the assets and obligations of the political subdivision described in subsection (a) and a proposal regarding the distribution of those assets and the satisfaction of those obligations.

(C) A description of the services currently provided by the political subdivision described in subsection (a) and (if applicable) an explanation of how those services will be



1           provided after the dissolution of the political subdivision  
2           described in subsection (a).  
3           **(6) At the public meeting under subdivision (3), the legislative**  
4           **body shall allow the public an opportunity to testify and**  
5           **comment upon the proposed dissolution.**  
6           **(7) At the public meeting under subdivision (3), the legislative**  
7           **body may adopt an ordinance (in the case of the legislative**  
8           **body of a county or municipality) or a resolution (in the case**  
9           **of the legislative body of any other political subdivision)**  
10          **dissolving the political subdivision described in subsection (a)**  
11          **as provided in the plan described in subdivision (5).**



## COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 104, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 23, delete "except as" and insert "**except:**

**(A) as expressly granted by statute; or**

**(B) if IC 36-1-8-17.7 applies to the political subdivision, in accordance with the procedure set forth in IC 36-1-8-17.7."**

Page 2, delete line 24.

Page 2, after line 31, begin a new paragraph and insert:

"SECTION 2. IC 36-1-8-17.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 17.7. (a) This section applies to a political subdivision:**

- (1) that was established by another political subdivision; and**
- (2) for which there is no process or procedure expressly specified by law regarding the dissolution of the political subdivision.**

**(b) A political subdivision described in subsection (a) may be dissolved in the following manner:**

**(1) The political subdivision described in subsection (a) may be dissolved as provided in this section only by the political subdivision that established the political subdivision described in subsection (a).**

**(2) The legislative body of the political subdivision that established the political subdivision described in subsection (a) must adopt a preliminary resolution stating the intent of the legislative body to dissolve the political subdivision described in subsection (a).**

**(3) The legislative body that established the political subdivision described in subsection (a) must hold a separate public meeting regarding the proposed dissolution of the political subdivision described in subsection (a). Notice of the meeting shall be given in accordance with IC 5-3-1. The legislative body must hold the public meeting:**

**(A) except as provided in clause (B), at least ninety (90) days after adopting the preliminary resolution under subdivision (2); or**

**(B) at least one hundred eighty (180) days after adopting the preliminary resolution under subdivision (2), in the case of the proposed dissolution of a political subdivision**



described in subsection (a) that has been in existence for at least ten (10) years.

(4) At least ten (10) days before the public meeting under subdivision (3), the legislative body that established the political subdivision described in subsection (a) must make available to the public a plan regarding the proposed dissolution. If the legislative body maintains an Internet web site or an Internet web site is maintained on behalf of the legislative body, a copy of the plan must be posted on the Internet web site at least ten (10) days before the public meeting under subdivision (3).

(5) The plan regarding the proposed dissolution must specify the following:

(A) The effective date of the dissolution.

(B) A description of the assets and obligations of the political subdivision described in subsection (a) and a proposal regarding the distribution of those assets and the satisfaction of those obligations.

(C) A description of the services currently provided by the political subdivision described in subsection (a) and (if applicable) an explanation of how those services will be provided after the dissolution of the political subdivision described in subsection (a).

(6) At the public meeting under subdivision (3), the legislative body shall allow the public an opportunity to testify and comment upon the proposed dissolution.

(7) At the public meeting under subdivision (3), the legislative body may adopt an ordinance (in the case of the legislative body of a county or municipality) or a resolution (in the case of the legislative body of any other political subdivision) dissolving the political subdivision described in subsection (a) as provided in the plan described in subdivision (5)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 104 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 8, Nays 0.

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